

PUBLIC VERSION

EXHIBIT 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BRINKS GLOBAL SERVICES USA,)
INC.,)
Plaintiffs,) Civil No.
1:22-cv-06653-PGG
v.)
BONITA PEARL, INC., et al.)
Defendants.)

VIDEOTAPED DEPOSITION OF TANDY JAY MOTLEY

April 5, 2023 9:14 a.m.

Location: Doubletree by Hilton

5151 Wiley Post Way

Salt Lake City, Utah

Reported by:

HEIDI HUNTER, RPR, CSR

Job No.: 5857115

1 to tell it when I'm on duty. But it will
2 automatically turn on when I'm driving.

3 Q So driving time is automatic?

4 A Right.

5 Q Correct?

6 A Correct.

7 Q Other than driving time, the off-duty time,
8 the sleeper-berth time, and the on-duty time are
9 entries that you must manually make?

10 A That is correct. Also, if I stop, it will
11 automatically put me on on-duty for -- so say I
12 stopped for five minutes, within a couple of minutes,
13 it will automatically go to on-duty if I don't switch
14 it to off-duty if I'm off.

15 Q So, again, going back to what I was saying
16 before about Glenn. So Glenn -- for example, for this
17 particular trip we're talking about here from Salt
18 Lake to San Mateo to Pasadena, that is a schedule
19 prepared by Glenn, correct?

20 A That's correct.

21 Q And Glenn doesn't give you any -- didn't
22 give you any direction rather -- strike that. Start
23 again.

24 Glenn did not give you any direction as to
25 where you could stop, say, for a bathroom break or

1 something like during the entire trip, correct?

2 A No, he did not.

3 Q As you understand, you have the discretion
4 to do that on your own, correct?

5 A I do.

6 Q Do you have any medical conditions that
7 require you to stop for restroom breaks more
8 frequently than maybe your partner?

9 A No.

10 Q Other than stopping for a restroom break,
11 what other stops, within the schedule that Glenn gives
12 you, are you authorized to do?

13 A Well, we're kind of given the freedom of
14 picking spots, but we're supposed to pick spots that
15 are safe and open. You know, like the book says,
16 we're supposed to back up to things if we can. We
17 can't always do that, so we got to pick the best
18 locations and follow the guidelines. But we're
19 allowed to stop if we need to stop and go to the
20 restroom and if we need to get lunch.

21 Q And when you say we need to stop -- strike
22 that.

23 I think you said you're allowed to stop if
24 we need to go to the restroom or we need to get lunch,
25 correct?

1 the berth?

2 A There is a rule, yes.

3 Q What rule is that?

4 A That we're allowed to -- the rule is is that
5 somebody always needs to be in the truck, and if
6 they're not in the truck, our -- in the sleeper berth,
7 they should be outside guarding, and that the guy
8 who -- the driver can go get a meal. It says we can
9 go take our 30-minute break. The guy in the sleeper
10 berth has to be in the sleeper berth.

11 I don't have that in front of me. If you
12 want to bring the documents, but I know it's in our
13 documents.

14 Q So --

15 MR. FENDER: And, Jerry, we've been going
16 about 52, 53 minutes. It's about time for a break. I
17 don't want to interrupt your line of questioning, but
18 I would like to wrap it up soon and take a break.

19 MR. KROLL: Yeah. Give me a few more
20 minutes, that will be fine, another five minutes or
21 so.

22 BY MR. KROLL:

23 Q Tell me, sir, this trailer -- let's talk
24 about the day of -- this July 11th, 2022. The trailer
25 didn't have an alarm on it, did it?

1 A No, it did not.

2 Q The trailer didn't have any kind of video
3 surveillance on it, did it?

4 A It did not have surveillance.

5 Q And from the inside of your tractor, you
6 couldn't see into the back of that trailer, correct?

7 A No, I could not.

8 Q There was no window into the back, correct?

9 A No.

10 Q No camera to the back, correct?

11 A No.

12 Q There was no sign on the back of the trailer
13 that said: Warning, this trailer is under
14 surveillance, correct?

15 A That's correct.

16 Q So it is true, sir, you cited -- you're
17 telling me there's rules and regulations, whatever,
18 you mentioned 10 hours, right? But you do agree that
19 if you've got a sleeping person in the berth and
20 you're away from the vehicle, no one is guarding the
21 goods, correct?

22 MR. FENDER: Objection; vague. Calls for
23 speculation.

24 A Well, I mean, there's somebody in the truck.

25 Q He's not guarding, he's sleeping, right?

1 A He is sleeping.

2 Q He's sleeping, you're away. No one is
3 guarding the goods, correct?

4 MR. FENDER: Objection; vague. Calls for
5 speculation. Asked and answered.

6 A Yeah, nobody's technically guarding the
7 goods.

8 Q Thank you.

9 So let me ask you this, sir: When you pull
10 into the lot, did you see what other areas you could
11 have parked in?

12 MR. FENDER: Objection; lacks foundation.
13 You can answer.

14 A You know, when I pulled into the lot -- if
15 you want me to draw it out, I can show you exactly how
16 I parked.

17 Q No, not right now. I just want to know, you
18 pull into the lot and you had a choice of where you
19 could have parked this vehicle, correct?

20 A There were choices and I picked what I
21 thought to be the best place to park. I parked in an
22 open area, what was pretty -- fairly lit up and people
23 could see it from the fuel islands. So it was
24 visible, so -- and there was no trucks behind me. It
25 was totally open. I picked the best spot that could

1 thick.

2 Q Can you roll the windows down on that
3 vehicle?

4 A We cannot roll down the windows, no.

5 Q How do you get ventilation into the cab?

6 A Well, we have air conditioning.

7 Q And when you're -- when the motor is turned
8 off, how do you get ventilation into the tractor?

9 A Well, there's no way to do -- we do have in
10 the back where we can crack these little tilting
11 windows and that's it, in the sleeper, but we -- we
12 have to keep our trucks running most of the time
13 because we don't have ventilation, otherwise we would
14 burn up or freeze up in different seasons.

15 Q Is it true, then, that the refrigerated
16 trailer wasn't armored, correct?

17 A None of the trailers are actually armored.

18 Q It's also true that -- was there a light
19 inside the trailer?

20 A There is a light inside of the trailer.

21 Q But this one the switch was broken, correct?

22 A Yeah, I don't remember the light actually
23 working in that trailer.

24 Q It didn't work?

25 A It did not work.

1 is the way it is, right?

2 A I think that this question is actually a
3 question for the Brinks' security, higher-up
4 department, not something I can answer.

5 Q Right. In other words, you're just -- these
6 are the rules they gave you?

7 A Right.

8 Q You're operating under the rules that
9 Brinks' management gave you, correct?

10 A That's correct.

11 Q And whether that represents security first
12 or not is not your concern, right, that's for Brinks'
13 management, right?

14 A As long as I'm following the rules, this
15 would be Brinks' management question, yeah.

16 Q Would you agree, sir, that if -- if one
17 of you, you or Mr. Beaty, is sleeping in the sleeper
18 berth, that's not what you would call standing guard
19 over the goods, right?

20 A I wouldn't call that standing guard over the
21 goods.

22 Q Thank you.

23 A But there is a lock on the trailer. There
24 is still other security measures in there. I mean, I
25 know it's not a fail safe, but there is stuff

1 involved.

2 Q Move to strike. Nonresponsive. I'm just
3 asking you whether you agree that by -- somebody
4 sleeping in the berth, that's not standing guard over
5 the goods, correct?

6 MR. FENDER: Objection; asked and answered.

7 A No, it's not totally secured, I mean, as far
8 as being watched. But there are other measures
9 involved.

10 Q I'm not asking about other measures
11 involved. I'm talking about somebody standing guard,
12 an individual. An individual sleeping in the berth is
13 not standing guard over the goods, correct?

14 MR. FENDER: Objection; asked and answered.

15 A Nobody is standing guard at the moment.

16 Q Let's take a look at Page 41428 of
17 Exhibit 7. Take a look near the bottom "Truck
18 containing valuables." Do you see that section, sir?

19 A I do.

20 Q It says: "At least one BGS" -- and that
21 means Brinks Global Services -- "employee must stay
22 with a secured load at all times. This applies at all
23 company terminals, customer premise, fuel stops, et
24 cetera."

25 You understand that means includes the